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C O N F I D E N T I A L SECTION 01 OF 04 MEXICO 002886

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SUBJECT: HUMAN RIGHTS TALKS REVEAL AREAS OF AGREEMENT,
DISCORD ON OAS AGENDA

Classified By: MCPA CHARLES V. BARCLAY, REASONS: 1.4(B/D).

¶1. (C) Summary: On May 29, U.S., Canadian and Mexican officials held trilateral talks in Mexico City on human rights cooperation. This is the first of two cables summarizing the talks, and will focus on issues relating to the upcoming OAS General Assembly (OASGA); issues relating to the UN Human Rights Council (HRC) will be discussed septel. The candid discussions revealed broad agreement between the USG and GOC on many issues. While the talks reflected broad, trilateral agreement on the draft OASGA resolutions relating to protecting human rights while combating terrorism, and protecting the rights of migrants and human rights defenders, they also reflected significant disagreements with respect to the draft OAS instruments on the rights of indigenous peoples and on fighting racial discrimination. All three delegations concurred that the candid discussions had proven very useful. End summary.

¶2. (C) On May 29, representatives of the U.S., Canadian and Mexican governments met in Mexico City for trilateral talks on human rights. The talks began with Ambassador Gomez Robledo detailing major initiatives the Calderon administration was undertaking to improve Mexico's domestic human rights performance. He said the GOM was committed to bringing its domestic human rights practice into compliance with its international obligations under existing human rights instruments.

Setting Priorities for the OAS General Assembly

¶3. (SBU) After Gomez Robledo's brief introduction, the delegations turned to a discussion of their respective priorities at the upcoming OASGA. Director General for Regional Organizations Raul Cueta said GOM priorities at the OASGA included resolutions on protecting the rights of internally displaced persons, migrants, human rights defenders, and detainees, as well as on protecting human rights and fundamental freedoms while fighting terrorism.

¶4. (C) Canadian Gwyneth Kutz said the GOC shared many of the GOM's OASGA priorities. Kutz said GOC priorities also included the resolutions on protecting the rights of migrants, and expressed interest in joining the U.S. and Mexico in co-sponsoring their joint-resolution. (Note: Since the resolution is already closed, this will not be possible. End Note.) Canada is also prioritizing efforts on human rights defenders, protecting human rights while fighting

terrorism, promoting democracy in the hemisphere, and promoting the participation of civil society in hemispheric human rights efforts. The GOC will also push for the hiring of more women in senior OAS positions.

15. (C) Kutz stressed the GOC is concerned about a number of resolutions proposed by Venezuela, including one on the so-called right to a healthy environment, a right which is not established in international law; a resolution on citizen participation in the development of democratic systems; and a resolution on the obligation in the OAS Charter to preserve and strengthen peace in the hemisphere, which she identified as selectively reinterpreting the original text of the OAS Charter. Canada is deeply concerned about recent internal developments in Venezuela, where the regime's actions had so eroded freedoms and public institutions as to put Venezuelan democracy at risk.

16. (C) DAS Barks-Ruggles agreed with Cueta and Kutz that trilateral cooperation on the draft resolution on migrants had been excellent. She said the resolution on civil society participation in human rights efforts was among the USG's priorities for the OASGA and urged GOM support for the resolution. Barks-Ruggles joined Canada in expressing strong concern over internal developments in Venezuela, particularly recent measures aimed at muzzling the opposition press, and efforts to block action by others in the OAS on human rights. She emphasized that in the face of such troubling developments, Mexico's co-sponsorship of the resolution on free expression was vital.

Mexico Seeks Clarification of NGO Resolution

17. (C) The Mexicans said the GOM did not disagree with the
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principles underlying the U.S.-sponsored resolution on Non-governmental Organizations and the Protection of Human Rights and Promotion of Democracy, but that it and some other governments felt the resolution needed to be clarified, as it potentially duplicated the draft resolutions on both human rights defenders and promoting democracy. Barks-Ruggles explained that the resolution calls on SYG Insulza to prepare a report on NGO best practices and to reiterate the responsibility of states to promote and protect NGOs, offering the opportunity to tell a positive story about non-governmental organizations, contributions in this arena. She added that all three North American governments had made important contributions to the resolution on protecting the defenders of human rights and it should be passed.

Venezuela's Resolution on Posada-Carilles

18. (C) Turning to the draft Venezuelan resolution on the Posada-Carilles case, Barks-Ruggles emphasized that the OAS was an inappropriate forum for addressing what was plainly a bilateral U.S.-Venezuelan issue. Several governments had already pledged to support USG efforts to defeat the Venezuelan resolution and she urged Mexico to do the same. The Mexicans replied that the GOM would study the resolution's text.

OAS Declaration on Rights of Indigenous People

19. (C) The single biggest area of disagreement related to the OAS Declaration on the Rights of Indigenous Peoples, as well as the UN declaration on the same subject (septel). The Mexicans argued that with an indigenous population of between 10 and 12 million, domestic political considerations required strong GOM support for the OAS declaration. They added that such domestic political pressure existed in many other Latin American countries and was a major factor underlying broad support for the as yet unfinished declaration. The GOM

believes that an OAS declaration should be consistent with the UN declaration. The Mexicans asserted that the U.S. proposal for general principles on indigenous rights would be "a step backwards." Pressed by the US delegation as to why a declaration would be seen as negative, the GOM delegation emphasized form (e.g. the importance of an international instrument versus a single declaration) over substance.

¶10. (C) DAS Barks-Ruggles emphasized the USG is committed to concrete actions to address legitimate indigenous grievances.

She noted that the USG took its international obligations seriously, that even non-binding declarations had significant U.S. domestic legal implications, and that the USG would not support a declaration that could not be implemented. She explained that while early on, the USG had sought to negotiate the declaration line-by-line, it had concluded that this approach had not been effective. In the interest of not blocking negotiations, the U.S. had taken the principled position of taking a general reservation on the text, while seeking to enhance the negotiations by contributing observations based upon domestic U.S. experience on this issue. She agreed the OAS declaration should be consistent with the UN declaration, noting that the simultaneous negotiation of the two declarations had led to inconsistencies.

¶11. (C) The Canadians emphasized that in Canada the issue of indigenous rights was politically charged. They observed that even though declarations such as this one were not themselves legally enforceable, Canadian courts were already citing other international declarations as evidence of evolving legal standards. The GOC was therefore very concerned about the current text of the declaration, which would have serious domestic legal ramifications if signed by Canada. They argued the OAS declaration should focus on points about which there is an international consensus, and that including controversial issues on which no consensus existed would compel Canada to opt out, weakening the declaration's significance. They said that a declaration promising more than could possibly be delivered would create even more serious problems with indigenous groups than currently existed, and that it was therefore vital to have a declaration whose terms could be fulfilled.

¶12. (C) The Mexicans concluded the discussion of this issue

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by noting that indigenous peoples had become an important actor in the international system, and that they had high expectations for achieving gains by working within the system. Accordingly, the GOM believed the international community had to address these concerns. The Mexicans repeatedly urged the three governments to search for "creative solutions" to their disagreement, taking into account political realities in Latin America.

Resolution on Migration

¶13. (C) The Mexicans said the GOM was extremely pleased about the U.S.-Mexican co-sponsorship of the OAS resolution on migrants, which they said reflected a "qualitative change" in the nature of bilateral cooperation in regional fora. They reiterated that the draft resolution on protecting the human rights of migrants was among the GOM's highest priorities and that the GOM also sought to establish a special commission on migrant issues, to operate under the OAS Permanent Council. The Mexicans believed the OAS was a useful mechanism for addressing the issue of migration and emphasized their support for the revised text of the draft Belizean resolution on migration flows.

¶14. (C) DAS Barks-Ruggles said the USG was also very pleased about the cooperation on the resolution on migration, adding that the USG was committed to protecting the human rights of migrants. She reiterated the administration's efforts to

secure passage of an immigration reform bill to address the issue of migration comprehensively.

¶15. (C) The Canadians asserted the issue of migrants' rights needed to be addressed in practical rather than rhetorical terms, to reduce politicization of the issue, and to reduce inconsistencies and redundancies. They observed that an increasing number of international bodies were dealing with the issue and that an effort should be made to decide which bodies were best equipped to handle the issue.

Human Rights and Terrorism

¶16. (C) The Mexican delegation observed the three governments had cooperated well on the resolution addressing the protection of human rights and fundamental freedoms in the war on terrorism, which was a high international priority. DAS Barks-Ruggles agreed trilateral cooperation had been strong. She urged the GOM to consider supporting the biennialization of this resolution, noting the resolution absorbed considerable attention at the OASGA and that biennializing it would open room on the agenda for other important issues. The Mexicans said they would consider the idea cautioning, however, that biennializing the resolution might depend upon "political factors."

Inter-American Convention on Discrimination

¶17. (C) The Mexicans outlined a number of measures the GOM was taking to fight discrimination within Mexico, adding that international human rights instruments had proven a major factor in encouraging the GOM to strengthen its domestic human rights performance. Accordingly, the GOM believed the draft Inter-American convention on this issue would be a useful tool, even if not all governments chose to ratify it. In response, the Canadians said the text was weak, and at times even inconsistent with existing international norms. They noted, for example, that it would criminalize conduct that could not be criminalized under Canadian law, and that while the GOC strongly supported the fight against discrimination, it would not be able to support the convention as currently drafted. They added that developing new norms risked confusing existing international norms, and that instead of creating such new norms, it would be far more effective to seek full implementation of existing norms.

¶18. (C) DAS Barks-Ruggles noted the USG had not been involved in the negotiation of the convention and had made a general reservation with respect to its text.

¶19. (C) The U.S. delegation, headed by DRL DAS Erica Barks-Ruggles, included Doug Rohn of IO/RHS, Steve Hill of L/HRR, Laura Jordan of DRL/MLGA, and Alan Meltzer and

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Priscilla Adams of Embassy Mexico City. The Mexican delegation, headed by Ambassador Juan Manuel Gomez Robledo, Secretariat of Foreign Relations (SRE) Under-Secretary for

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Multilateral Affairs and Human Rights. The following SRE officials also participated: Alejandro Negrin, Ulises Canchola, Alejandro Estivill, Raul Cueto Martinez, Salvador de Lara, Matilde Garcia Verastegui, Juan Carlos Lara, Sylvia Cabrera, Luis Benavides, and Mariana Salazar. The Canadian delegation, headed by Gwyneth Kutz, Director of the Canadian Department of Foreign Affairs and International Trade's (DFAIT) Division of Human Rights, Equality of Gender, Health, and Population, also included DFAIT officers John Hannaford, Benoit Gauthier, Sirine Hijal, as well as Matt Loken, of the Canadian Embassy in Mexico City.

¶20. (U) DAS Barks-Ruggles has cleared on this cable.

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